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The Drunk Driver and Jail Alternatives to Jail

Volume 2

The Drunk Driver and Jail

Alternatives to Jail

Volume 2

Prepared in cooperation with
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College Park, Maryland



U.S. Department of Transportation
**National Highway Traffic Safety
Administration**

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Doris Aiken President Remove Intoxicated Drivers	Ray Nelson Director NIC Jail Center
Gary Blake Director Department of Correction and Rehabilitation Montgomery County, MD	Stephen Powers Division of Probation New York State
Norman R. Cox, Jr. President American Jail Association	Samuel Saxton Director Department of Corrections Prince George's County, MD
Francis R. Ford Director, Jail Operations National Sheriff's Association	Gene A. Scroggy Warden Kentucky State Penitentiary

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Stephen A. Carter Carter-Goble Associates, Inc. Columbia, SC	Bruce Orenstein Department of Corrections Prince George's County, MD
James Kirk Chief Deputy Sheriff's Department Mecklenburg County, NC	Michael O'Toole National Institute of Corrections Jail Center Boulder, CO
John J. Memory Office of the Governor Columbia, SC	

Executive Summary

Despite growing public and legislative support for jailing drunk drivers, not all agree that this sanction is appropriate for the drunk driving offense (DWI). Some people see other solutions to the traffic safety problem—better educated drivers, better roads, better cars; some believe drunk driving is primarily a health problem and should be the province of health, not correctional, agencies; and some believe that our most restrictive correctional facilities—prisons and jails—are a scarce and expensive commodity that should be used only for offenders who cannot be safely confined or safely supervised in less restrictive (and less costly) programs.

Nevertheless, in July 1984 the U.S. Congress passed a law—Public Law 98-363—that encourages the States to pass their own laws mandating specific sentences for drunk driving: 48 hours in jail or 100 hours of community service for first offenders, and 10 days in jail for the second drunk-driving offense. The 1983 Presidential Commission on Drunk Driving and the Department of Transportation also recommend mandatory sentences of 48 hours in jail or 100 hours of community service for the drunk driving offense. (The Presidential Commission recommends this sentence for the *first* DWI offense; Section 408 of the Highway Traffic Safety Act recommends it for the *second* DWI offense.) Sixteen States now have legislation requiring jail or alternative sanctions for the first-offense drunk driver, and 41 States have laws requiring jail sentences (from two days to six months) or other sanctions for those found guilty of DWI a second time.

This series of publications was developed by the American Correctional Association under contract with the National Highway Traffic Safety Administration in an attempt to help commu-

nities manage the influx of drunk drivers into the correctional system in a safe, equitable, and cost-effective manner. The subject of these manuals is two-fold: (1) the specialized needs of DWI offenders, and (2) the special opportunities for maximizing the effectiveness and minimizing the costs of their correctional programs.

THE JAIL PROBLEM

Putting criminals in jail is only one of many correctional options. Moreover, increasing the size of local jails or building new ones is likely to be one of the most expensive and difficult of the options available for managing drunk drivers. The Department of Justice estimates that it costs \$43,000 per bed to build a new jail. But building costs are only the tip of the iceberg. Operating expenses and salaries account for 90% of the total cost of a typical jail. In 1983 it cost an average of \$9,500 a year to maintain an inmate in jail (although regional costs ran as high as \$17,000 per year). Add to these costs the problems already faced by many jails—overcrowding, lack of personnel, lack of needed programs and services such as suicide screening—and it is easy to understand why jailing the 1.9 million DWIs arrested each year will impose enormous new demands on correctional programs and services and the limited funds available to them.

In addition, most professionals in the criminal justice field, including the American Correctional Association, advocate for *all* offenders “the development and use of the least restrictive sanctions, punishments, programs, and facilities consistent with public safety and social order” (ACA National Correctional Policy on Use of Appropriate Sanctions and Controls, January 1984).

The spectrum of correctional options ranges from fines and unsupervised probation, on the one end, to incarceration in secure facilities (jails and prisons) on the other. In comparison with other criminals, most drunk drivers are classified as low-risk, non-violent offenders who have no prior criminal history. For these types of offenders, correctional options other than secure incarceration can often be used to restrict their freedom of movement and monitor their activities. As these manuals point out, however, the public at large is often unaware of these options.

CHOICE OF SANCTIONS

Ideally, the choice of sanctions for drunk drivers should take into account the sanction’s effectiveness for reducing alcohol-related traffic accidents and preventing repetition of the offense (recidivism) by those who have already been punished. Based on evidence to date, it would seem that a combination of sanctions is usually more effective for combatting the drunk driving problem in a way that has positive long-term effects. The following overview highlights some of the sanctions discussed in these manuals.

Little is known about the effectiveness of jail sentences as a deterrent to drunk driving. For one thing, the jail sanction rarely has been applied swiftly or consistently to drunk drivers. As a result, researchers have not been able to carry out comprehensive or long-term studies of this sanction’s effectiveness for controlling the DWI offense. The most positive study available was conducted in Hennepin County, Minnesota, and released in 1984 (Falkowski). The study showed a 20% decline in the number of nighttime crashes after imposition of a mandatory two-day sen-

tence for first-offense DWIs. The extent to which this decline was due to changed behavior on the part of the drunk drivers or to more careful driving by the public in general is not known.

We do know that from one-third to one-half of first-offense drunk drivers and almost all of those arrested two or more times for drunk driving have a health problem—problem drinking. Short-term alcohol education programs for social drinkers and long-term (one year) treatment programs for problem drinkers have proved effective in reducing recidivism. National standards for good correctional practice recognize that offenders with drug and alcohol abuse problems require specialized treatment. In addition, experience shows that, along with driver's license actions, the treatment sanction is the one most feared and disliked by drunk drivers.

There is general agreement that drunk driving offenders should pay fines and fees to cover as much of the costs of their correctional and alcohol treatment programs as possible. Many feel that DWIs should also make restitution to the community, either directly to victims or through payments to general victim compensation funds. (Interestingly, most drunk drivers are not arrested as a result of a traffic accident and therefore have no victim.)

Interest in community service, both as an adjunct and as an alternative to incarcerating certain offenders, is rapidly increasing. Use of this non-residential sanctioning option is supported by Federal recommendations on drunk driving, and more than 20 States have established unpaid work on behalf of the community as an alternative to short-term jail sentences for drunk drivers. Properly administered, community service programs offer the benefits of reducing correctional costs and

jail overcrowding while providing useful services to communities and a more constructive penalty for non-violent offenders.

Unlike many other criminals, most convicted drunk drivers are employed. Many corrections professionals believe that the most appropriate correctional placement for low-risk, non-violent drunk drivers is in work release centers or non-residential correctional programs (for example, intensive probation supervision) because these programs provide supervision but also allow offenders to continue earning incomes and therefore help reduce the tax burden of their correctional programs.

One sanction that has proved highly effective in reducing alcohol-related traffic accidents is license suspension or revocation. Studies show that even though some drivers continue to drive after their license has been suspended or revoked, they drive fewer miles and more carefully than they did before. While license actions are and should remain the responsibility of the State's motor vehicle department, it is important that communities include this sanction in their programs to combat drunk driving and that they allocate sufficient resources to law enforcement to raise the likelihood that the driver who drives with a suspended or revoked license is detected.

ACTION STEPS FOR COMMUNITIES

The variety of correctional options available—and their theoretical and tested effectiveness—point to the need for communities to take a comprehensive approach to controlling drunk driving. The correctional system cannot do it alone. Dealing successfully with the drunk driver problem requires a com-

munity-wide commitment of concern and resources before, during, and after the imposition of correctional sanctions:

Adequate law enforcement measures to improve the likelihood of apprehending drunk drivers and those driving with suspended or revoked driver's licenses. (Without special law enforcement efforts, arrests are made for only 1 out of every 1,000 to 2,000 drunk drivers on the highways.)

Adequate procedures and resources for the courts and corrections to ensure that all sanctions are imposed swiftly and consistently.

More precise traffic safety data collection to accurately determine increases and declines in alcohol-related traffic accidents.

Adequate monies and talent to monitor and evaluate the effectiveness of any measures imposed to control drunk driving, including their effect on recidivism.

Finally, experience has shown that sustained public information campaigns to keep public consciousness about safe driving practices at a high level and to publicize new sanctioning policies is crucial to the success of any program to combat drunk driving.

SERIES OVERVIEW

Volume I of this series (*The Drunk Driver and the Jail Problem*) focuses on developing a coherent policy for drunk drivers. It reviews the drunk driving problem and the problems faced by many of the Nation's 3,000 jails and local lockups in dealing with the influx of DWI offenders. After describing various approaches to controlling drunk driving and reviewing the evidence for the effectiveness of jail sentences, the volume concludes with a list of specific considerations that should guide the

development and operation of all correctional programs for DWIs.

Volume II (*Alternatives to Jail*) discusses the use of objective classification systems to identify a drunk driver's drinking status, risk to the community, and correctional program needs. It then examines what is known about five non-residential sanctions that can be used as alternatives or adjuncts to a jail sentence: community service; intensive probation supervision; alcohol education and treatment; restitution; and driver's license actions.

Volume III (*Options for Expanding Residential Facilities*) examines four ways to increase available bed space (number of beds)—conventional construction, modular construction, renovation, and contracting out correctional programs—and compares the advantages and disadvantages of each approach.

Volume IV (*Step by Step to a Comprehensive DWI Program*) describes how to go about determining a community's correctional needs (who should be involved, what information must be gathered) and discusses how to put the findings into effect (building community support, how to obtain funding).

Volume V (*Resource Materials*) contains copies of documents and forms in use in correctional programs around the country. They are not official models but, rather, examples of "working documents" that might prove useful to communities as they develop their own procedures and forms. Included are examples of forms for classification and suicide risk screening; work release agreements and contracts; community service forms and waivers of liability; and overviews of alcohol education and treatment programs. Also included are examples of State laws on offender fees and information on jail accreditation. The volume also contains a list of the State Offices of Highway Safety and the current criteria for receiving funding under Section 402 of the Highway Safety Act.

It is important for readers to keep in mind that, while the focus of these manuals is the drunk driver, it is not intended that DWIs be placed in facilities or programs separate from other groups of offenders with similar needs and characteristics. Judges and correctional administrators need flexibility in making appropriate assignments. Many existing facilities and programs are

appropriate for drunk drivers. Similarly, facilities and programs developed principally in response to the increased arrest rates and tougher sanctions for drunk drivers can and should be used for other types of low-risk, non-violent offenders, especially those with alcohol problems.

Readers seeking additional information are encouraged to contact the following:

1. Stephen Hatos, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone (202) 426-9581
2. W. Hardy Rauch, American Correctional Association, 4321 Hartwick Road, Suite L-208, College Park, MD 20740. Telephone (301) 699-7660
3. Ray Nelson, National Institute of Corrections Jail Center, 1790 30th Street, Suite 140, Boulder, CO 80302. Telephone (303) 497-6700
4. Francis R. Ford, National Sheriff's Association, 1450 Duke Street, Alexandria, VA 22314. Telephone (703) 836-7287

Glossary of Terms

ACA The American Correctional Association. A national organization of corrections professionals.

ACCIDENT Any event involving a moving vehicle on a public highway that causes injury or property damage. Some experts prefer the word “crash” because it does not imply that the event was accidental or “uncaused”—“A crash is no accident.”

BAC Blood alcohol concentration. Driving with 0.10% BAC is an offense in all States. Actual driving impairment occurs at lower (0.05%) BAC levels.

COMMUNITY-BASED FACILITIES

Correctional facilities operated publicly or privately (under contract) to hold persons to permit the offender limited opportunities for work, schooling, or other community contacts. Such facilities are used for a variety of purposes, including specialized intervention or assistance (for example, drug or alcohol treatment), graduated release from prison—usually prior to parole—or as a sanction in lieu of prison or jail confinement.

CRIME The commission of an act that is forbidden by public law and that makes the offender punishable by that law. Crimes are classified into two categories: misdemeanors and felonies. A misdemeanor is commonly defined as an offense that is punishable by less than one year in confinement. A felony is a “major offense” that is punishable by one or more years in confinement. Although there is general agreement on the severity of offenses (murder, for example, is always considered a “major offense” and thus a felony), each State retains the authority to decide which crimes it considers misdemeanors and which it considers felonies.

DRUNK DRIVER Any driver operating a vehicle at an illegal blood alcohol concentration. The term does not imply that the driver obviously appears to be “intoxicated.” Drivers who appear quite sober can still be over the legal BAC limit.

DWI As used in this manual, DWI is a generic term for all alcohol driving offenses. The terms “driving while intoxicated,” “driving while under the influence,” and “operating a motor vehicle under the influence” are among those used by the States to describe the major alcohol-related driving offense—usually defined as operating a vehicle with a blood alcohol concentration of 0.10%. Some States have lesser offenses, usually described as “driving while impaired,” with defined blood alcohol concentration levels as low as 0.05%.

INCARCERATION The confinement of a convicted criminal in a Federal or State prison or a local jail to serve a court-imposed sentence. In many States, offenders sentenced to less than one year are held in a jail; those sentenced to longer terms are committed to the State prison.

JAIL A secure local detention facility for holding individuals awaiting trial or sentencing. Increasingly, jails are also used as places of confinement for offenders sentenced to short terms (generally less than one year).

LOCKUP A holding facility for individuals who have been arrested and who are awaiting arraignment or transfer. Generally limited by law to holding an individual for only a few hours.

NHTSA National Highway Traffic Safety Administration. An agency of the U.S. Department of Transportation.

NIC National Institute of Corrections. An agency of the U.S. Department of Justice that provides assistance primarily to the States and local communities.

NON-VIOLENT OFFENDER An individual who has no record of violent behavior or aggression toward others; a person whose criminal record and conduct is such that he or she is not considered to be prone to violent acts. “Violent crime” refers to crime such as homicide, rape, assault, and robbery.

PONI “Planning of New Institutions.” A program sponsored by the National Institute of Corrections to assist local jurisdictions planning new detention facilities.

PRISON A State or Federally operated detention facility, generally for offenders sentenced to one or more years of confinement.

Maximum security prisons are typically surrounded by a double fence or wall (usually 18-25 feet high) with corrections officers in observation towers. Such facilities usually have large interior cell blocks for inmate housing areas. About 41% of the maximum security prisons were built before 1925.

Medium security prisons typically have double fences topped with barbed wire surrounding the facility. Housing architecture is quite varied, consisting of outside cell blocks in units of 150 cells or less, dormitories, and cubicles. More than 87% of the medium security prisons were built after 1925.

Minimum security prisons typically do not have armed posts and may or may not have fences to enclose the institution. To a large degree, housing consists of open dormitories. More than 60% of the minimum security prisons were built after 1950.

Section 1

Introduction

Most Americans believe that criminals belong in jail and that those who are in jail are criminals. Yet the fact is that three out of four offenders are not in jail but are on probation or parole (DOJ, 1983a). Moreover, from one-third to one-half of those who are confined in our nation's jails are awaiting trial and not yet convicted of a crime (Kerle and Ford, 1982). The Department of Justice reports that probation is "the most widely used correctional disposition in the United States." Also widely used are split sentences involving "shock-probation"—a short jail sentence followed by probation.

Until recently, individuals convicted of driving while intoxicated (DWI) received fines and informal probation and were only rarely sentenced to jail. Even when sentenced to jail, the jail time was frequently suspended and the offender placed on unsupervised probation that required that he or she attend a treatment program and avoid drunk driving in the future. Concurrent with the change in public attitude toward drunk driving (see Volume I), courts are beginning to use "shock-probation" for DWIs. It is anticipated, for example, that the new DWI facility in Prince George's County, Maryland (PGC, 1984), will receive offenders who will be sentenced to a year in jail with all but a few days suspended. The remainder of the one-year period will be spent under supervised probation.

This series of manuals on sanctions for drunk drivers is based on two specific assumptions regarding penalties for DWIs. The first is that individuals convicted of drunk driving should be subject to the range of sanctions applied to other convicted offenders, up to and including incarceration. At the same time, this manual reflects the ACA policy of placing offenders under correc-

tional jurisdiction in the least restrictive appropriate programs. To handle DWIs most effectively and cost efficiently, it is desirable to have a wide range of appropriate correctional options. This volume describes the non-residential programs—community service, victim restitution, probation, license suspension, and treatment—that can serve as alternatives or adjuncts to incarceration for convicted drunk drivers.

A discussion of these alternatives is preceded by an example of how community policies and procedures strongly affect correctional costs. Also covered in this volume (Section 2) are the classifying (screening) procedures that can be used to determine the type of correctional alternative most appropriate to each offender. This volume closes (Section 8) with a comparison of the operational costs of various correctional alternatives.

ONE EXAMPLE OF RELATIVE COSTS

Little is known at this time about the relative effectiveness of various sentencing options for DWIs (see Volume I). More is known regarding the relative costs of those options. Residential programs (discussed in Volume III) are clearly more expensive in most instances than the non-residential alternatives discussed in this volume.

The potential impact on the local corrections budget of the various alternatives for handling accused and adjudicated offenders is illustrated in Figure 1-1 with data from Des Moines, Iowa (Carter et al., 1980). The Des Moines community corrections program was awarded exemplary project status by the National Institute of Law Enforcement and Criminal Justice. It has become a widely known model for the development of low-cost community-based pro-

grams for reducing jail overcrowding and minimizing correctional costs.

Figure 1-1 summarizes data on the cost of the six correctional programs in the Des Moines community:

- (1) *Pretrial Release*—This program evaluates individuals awaiting trial and makes recommendations on those who can be released on their own recognizance (ROR) rather than being held in jail.
- (2) *Pretrial Services*—This program provides supervision for individuals awaiting trial who do not meet the requirements for release on their own recognizance but who can be released to their homes under supervision, pending trial.
- (3) *Probation*—This component manages pre-sentence investigations and the supervision of offenders who are sentenced to probation.
- (4) *Men's Work Release Facility*—This renovated barracks on a partially deactivated Army base provides a 50-bed facility for work release offenders.
- (5) *Women's Work Release Facility*—This 30-bed facility is located in a residential area of Des Moines in a building leased from a private owner.
- (6) *Polk County Jail*—A typical county jail, this facility houses individuals awaiting trial who are not eligible for release on their own recognizance or pretrial supervision and sentenced offenders awaiting transfer to State facilities or serving their sentence in the jail.

As Figure 1-1 indicates, the cost per day of maintaining an individual in these six different programs varied considerably. In 1973, each day a person spent in jail cost the county \$10.49. The county saved \$10 a day for

each person awaiting trial who could be released on their own recognizance rather than held in jail. (Because the average daily jail cost in 1983 was \$26, current savings would be even greater.) Similarly, in 1973 the county could save \$6 a day for every individual awaiting trial who could be released under pretrial supervision rather than detained in jail, and \$9 a day for each person sentenced to probation rather than to jail. On the other hand, the men's and women's work release facilities were considerably more expensive on a per-day basis than the county jail. This difference was primarily due to the amount of services provided to each client.

The data from Des Moines apply primarily to non-DWI offenders. In addition to the alternatives shown in Figure 1-1, most communities also have the options of sentencing DWI drivers to community service and treatment programs. The wide variation in costs among these alternatives emphasizes the importance of community planning to develop a comprehensive and multifaceted DWI corrections program, as such a program has the best opportunity to be effective at the lowest cost. It also underlines the importance of program evaluation, as considerable cost savings can be realized if non-residential programs can be appropriately used in place of jail.

New York State recently developed an interesting comparison of costs to the State or locality of several residential programs for criminal offenders (jail, halfway house, residential restitution center) and several non-residential programs (parole, probation, and community service)—see Figure 1-2. As in the Des Moines example, costs vary significantly, and substantial savings can be realized where restrictive confinement

Figure 1-1— Costs Per Day and Per Term for the Polk County, Iowa, Jail and the Bureau of Adult Correction Services

	1973 Program Cost	No. of Client Days	Cost Per Day	Average Length of Term (days)	Cost Per Term
<u>Department of Court Services</u>					
Pretrial Release	\$ 58,377.92	134,137	\$.44	51.7	\$ 23
Pretrial Services	152,911.34	31,595	4.84	99.3	481
Probation	158,073.29	147,033	1.08	359.4	388
Men's Work Release Facility	339,278.14	16,829	20.16	107.9	2,175
Women's Work Release Facility	108,403.07	2,100	51.62	97.3	5,022
Polk County Jail	345,221.54	32,916	10.49	47.8*	501

*These figures apply only to detainees awaiting trial in the Polk County Jail; average length and cost per term for offenders serving sentences could not be determined.

Source: National Council on Crime and Delinquency, *Community-Based Alternatives to Traditional Corrections*, in Carter et al., 1980.

Figure 1-2— Comparative Annual Costs of Dispositions Per Offender (Estimates and Ranges)

<i>Incarceration</i>	\$ 14,600
<i>Parole</i>	1,460
<i>Probation</i>	250-1,200
<i>Non-residential Pre-trial Diversion Program</i>	3,900
<i>Halfway House</i>	8,395
<i>Residential Restitution Center</i>	4,500-9,855
<i>Non-residential Restitution/Community Service</i>	220-3,500

Source: Young and Stein, 1983

(halfway houses) or nonresidential programs can be used.

The effective use of alternatives to incarceration depends, of course, on the effectiveness of the classification system applied both to those who are awaiting

trial and to sentenced offenders. To the extent that classification is successful, offenders can be divided into those who can be adequately supervised through probation and community work release facilities and those who require, for

public safety and perhaps for their own safety, incarceration in secure facilities. Where accurate classification is possible, savings like those demonstrated for the Des Moines, Iowa, correctional services can be achieved.

Section 2

Classification of Offenders

To the general public, there may seem to be little need to distinguish among individuals who are convicted of crimes. The important point is to punish them and to keep those who are dangerous away from society through imprisonment.

For professionals within the corrections system, the problem is considerably more complex. Criminals present varying levels of risk to the public, to other offenders, and to the correctional staff with whom they come in contact. Offenders have:

- different security needs (does the offender need to be confined, and if so, at what level of security—non-secure, minimum, medium, maximum).
- different custody needs (level of supervision necessary to prevent them from injuring themselves or others or from being victimized by other offenders).
- different medical needs.
- different program needs (e.g., training, education) to assist in their rehabilitation.

Offender classification—screening to determine the particular needs of the offender—is the key to providing these services efficiently. This screening has typically occurred in three major settings: in the courts, as part of the pre-sentence investigation (PSI); in detention centers, as part of the intake classification procedure; and in treatment centers, as part of the diagnosis of medical, mental health, and substance abuse problems (drinker-type screening is just one element of a classification process).

An offender classification system serves at least three purposes:

1. *Safety.* The system is intended to identify violent and/or escape-prone offenders and ensure that they are placed in appropriately secure facilities where they will

also receive extra supervision. In addition, a comprehensive classification system will identify potential victims and separate them from aggressive prisoners.

2. *Determination of the least expensive/least restrictive appropriate detention.* The more secure the confinement and the greater the level of supervision, the more expensive it is to handle an offender. Secure facilities are considerably more expensive to construct and operate than non-secure facilities. It is therefore in the interests of the State and the tax payers to house inmates at the least restrictive level of security necessary to avoid violence, escapes, and victimization. In addition, the courts have generally taken the position that a level of confinement beyond the minimum required to meet the prisoner's needs can constitute "cruel and unusual punishment" (*Ramos v. Lamm*, 485 F.Supp. 122, 1979).
3. *Identifying special offender needs.* The third major purpose of classification has been to identify medical, mental health, and training needs of inmates with a view to making available programs that will economically meet these needs. An attempt is made to identify alcohol and drug addiction so that these problems can receive treatment and proper management. Propensity to suicide needs to be detected so that appropriate supervision can be provided. Finally, general health is assessed, particularly with respect to communicable diseases.

A significant factor in classification is the point within the criminal justice process at which assessment occurs.

Historically, screening of offenders sentenced to confinement is completed at the place of incarceration. This necessarily limits flexibility in assigning the offender to the alternative programs available within the particular detention center. A more cost-efficient procedure would be to perform this screening at a point in the process where a choice among several facilities as well as assignments within a given facility is available.

In an effort to make the most efficient use of available facilities and programs, some communities are incorporating the classification process into the pre-sentence investigation. One example is Montgomery County, Maryland, where individuals can be sent by the court to a work release center for a complete diagnostic evaluation and set of correctional recommendations prior to final sentencing.

PRE-SENTENCE INVESTIGATIONS

Courts have traditionally been given extensive discretion in sentencing offenders. Most State laws provide for a wide range of jail sentences and fines for the same offense, depending on the previous criminal history of the offender and the seriousness of the offense. Special circumstances of the offender and/or his or her dependents may also enter into the sentencing (e.g., indigent offenders are not required to pay fines). In some cases, the desire to avoid undue hardship for family members dependent on the employment of the offender will affect the type of sentence (e.g., work release). To provide this information, it has become standard practice to assign probation personnel to assess (investigate) offenders prior to their sentencing. While the extent of judicial discretion has been significantly limited by recent

The integrated assessment would include evaluation of the offender's criminal record, including any prior incarcerations; with the seriousness of the current offense; any medical or mental health problems; and the offender's potential for suicide, escape and violence (as either victimizer or victim).

If an effective integrated system for DWIs is established, it may be possible to avoid jailing or reducing jail time by using more appropriate, less costly alternatives. To the extent it is possible

to administer punishment through requiring unpaid work and restricting the offender's freedom without housing the offender, considerable savings can be realized.

At least five non-residential program options exist as alternatives to the incarceration of drunk drivers:

- Community service
- Victim restitution
- Probation supervision
- Driver license suspension
- Alcohol education and treatment

These five categories of correctional programs involve limitations to individual freedom and, in some cases, unpaid work. Most communities implement more than one of these options as part of a comprehensive corrections program for DWIs. The next sections describe each of these options and offer examples of how communities have implemented them. The strengths and weaknesses of each alternative are also discussed.

Section 3

Community Service

"Any person convicted of a first violation of driving under the influence should receive a mandatory . . . assignment of 100 hours of community service or a minimum jail sentence of 48 consecutive hours."

—*Presidential Commission on Drunk Driving*, 1983

Community service has been established as an alternative to short-term jail sentences for drinking drivers in more than 20 States (Figure 3-1) (NHTSA, 1983a). It is used in most other States as an additional sanction to jail, fine, and/or license suspension (Williams et al., 1983). In addition, a number of States have programs whereby incarcerated offenders can reduce their sentences by performing community service.

The use of community service as a alternative to incarceration for drunk drivers has been encouraged by the report of the Presidential Commission on Drunk Driving (1983). Section 408 of the Highway Safety Act provides that one qualification for Federal incentive funds shall be a State law that requires 2 days of jail (48 hours consecutive confinement) or 10 days of community service for *second* offenders. The recommendation by the Presidential Commission on Drunk Driving that *first* offenders receive minimum sentences of 48 hours in jail or 100 hours of community service has recently been embodied in Public Law 98-363, which provides incentives to States that adopt these provisions. In response to this guidance, more and more States are providing for community service as an alternative to a short jail sentence for first or second DWI offenses.

While the Presidential Commission suggests that 2 days of jail should correspond to 100 hours of community service, there is no national consensus on this relationship. For equity as well as cost comparisons, it would be useful to have an agreed-upon relationship between hours of community service, days of jail, and dollars of fine. Currently, these comparisons vary from State to State and court to court. Without a standard relationship, it is difficult to compare the cost of a community service program to the cost of a jail sentence. Because community service is not residential, however, the cost of such programs is generally lower than incarceration.

Community service programs have been managed by both governmental agencies and private groups. Some are operated as a court function; in these cases, it's generally an additional duty placed on the probation department to seek out opportunities to refer sentenced offenders to public and nonprofit agencies and to manage their assignments. Programs may also be managed by corrections officials, particularly where inmates are released to do public service work during their sentences.

Some correctional agencies use the services for their own facilities and programs. The Cook County Sheriff's Department, for example, has developed a program to supervise the 10-day community service requirement specified as an alternative to 2 days of incarceration for second DWI offenses. Because these are second offenders, the sheriff has been reluctant to place them with community service agencies that handle first offenders. As a result, the second offenders perform their community service on assignment to a sheriff's deputy responsible for maintenance of the

sheriff's department facilities. This keeps them constantly under the supervision of the sheriff's department.*

Another approach to managing community service is the creation of a private agency to manage the program. Such agencies establish procedures for receiving offenders from the courts, classifying the offender's job skills, selecting placements, assigning the offender to the user organization, and following up with the user organization to ensure that the service was performed. In addition, these private agencies must establish procedures for reporting back to the court. They must also develop the contracts used with the receiving agencies as well as the forms the receiving agencies use to report on the quality and completeness of the offender's work (Harris, 1979).

Private agencies that manage community service programs are also required to perform a number of activities to help develop support for their programs. Generally, they are involved in fund raising, publicizing the program to potential users, and selling the program to the public. It is also important that they be able to conduct at least a minimum evaluation of their program's effectiveness; this requires adequate record-keeping and analysis of program achievements. The California League of Alternative Service Programs (CLASP, n.d.) has developed a set of standards for evaluating community service programs.

*Personal communication from Donald Gaugush, Administrative Assistant, Cook County Department of Corrections, Cook County Building, 118 N. Clark, Room 900A, Chicago, IL.

**Figure 3-2— CLASP Assessment
Project: Preliminary Summary of
1982 Survey Results**

DRUNK DRIVERS – 13 programs reported serving 14,749 drunk drivers in 1982. If this rate holds true for all 47 CLASP Member Programs eligible for inclusion in the completed 1982 Annual Report, we would expect to see a total of 35,438 served by them. Similarly, the 76 programs in existence in California may have served as many as 57,292 drunk drivers.

ADMINISTRATIVE BASE – Of the 20 programs, 9 are Probation-based, 9 are non-profit Volunteer Center-based, 1 is located within a county personnel department, and 1 is a Private Non-Profit agency functioning solely to place offenders ordered to community service.

INSURANCE – 10 of 20 programs reported NO COMPREHENSIVE COVERAGE (Accident/Health & General Liability) for offenders. 7 of 20 programs retain comprehensive coverage in case of accident or incident. Information unavailable for 3.

FINE/JAIL CONVERSION RATIOS – 15 programs reported NO

STANDARDS in effect. 4 programs reported standards such as: \$5.00 (fine) = 1 hour community service; 1 day in jail = 8 hours community service.

OFFENDER FEES – 10 of 20 programs charge fees ranging from \$1.20 (for insurance) to \$75.00. The most common fee is \$40.00. Fees are charged only by private non-profit programs; no county-run programs charge fees.

UNEMPLOYMENT – All programs keeping this information report high percentages of offenders referred to be unemployed – from 28% to 70% of caseload.

AGENCIES SERVED – 14 programs reported serving a total of 1,189 Public and Private Non-Profit agencies.

BUDGET COSTS – Although figures were reported by 11 of 20 programs, they often do not include all costs incidental to program operation and should therefore *not* be used to determine cost-effectiveness or cost of operation. For example, many

Probation reported budgets do not include rent, office supplies, or photocopy costs.

CASELOAD RATIOS – Although the figures calculated for these programs are indicative of the range demonstrated in California, they should *not* be used to determine appropriate caseloads. Some programs utilize volunteers who may not be represented herein, while others have experienced as much as 200% increase in referrals recently with no increase in staff.

HOURS WORKED – Since 20 programs reported 1,947,778 hours worked by offenders in 1982, we expect the 1982 Annual Report to show about 4,479,889 (hours) reported by 47 programs. At this rate, offenders from the 76 programs in existence may have worked as many as 7,401,556 hours for a total community benefit in California of \$24,795,214.00.

Source: California League of Alternative Service Programs

Figure 3-3— CLASP Assessment Project—Preliminary Data, 1982 Annual Budget

<u>Program</u>	<u>Start Date</u>	<u>Budget</u>	<u>Adm. Cost per Referral</u>	<u>Adm. Cost per Day of Work</u>	<u>Number Intervw Staff</u>	<u>Number Referrals</u>	<u>Caseload per Intervwr</u>	<u>Number Hours Worked</u>	<u>% DUI</u>	<u>% Traffic</u>
Contra Costa	1975	\$ 22,987	\$ 39.09	\$ 2.48	1½	588	442	74,209	15%	75%
Humbolt	1974				¾	210	318	11,666	60%	
Kern	1975	32,000	52.50	9.85	1	613	613	26,000	unk.	unk.
Kings	1968	17,250	32.54	8.12	1	530	530	17,000	unk.	unk.
LA-Central	1974	107,000	18.04	1.79	7	5,930	847	478,000	53%	15%
LA-SFV	1975				9½	9,843	1,036	510,767	48%	25%
ORANGE - SOC	1973	33,000	20.93	3.51	1½	1,577	1,051	75,129	48%	9%
ORANGE - WOC	1974	20,000	28.86	4.96	⅓	693	2,100	32,251	23%	13%
RIVERSIDE Prob	1977				1	192	192	11,503	11%	5%
RIVERSIDE										
VolCnt	1976				1	261	261	15,686	36%	16%
SAN DIEGO	1978					3,284 +		95,028 +	unk.	unk.
SAN FRANCISCO					2	2,715	1,358	212,759	n.a.	n.a.
SAN MATEO	1971				4	2,684	671	122,787	unk.	unk.
SANTA CLARA										
No.	1977	53,000	64.16	137.26	2½	826	1,236	3,089	3%	2%
SANTA CRUZ	1974	75,540	46.37	10.53	3	1,629	543	57,372	12%	38%
SIERRA	1978	7,500	277.78	49.02	⅓	27	135	1,224	34%	19%
SOLONO					½	522	1,044	21,682	unk.	unk.
STANISLAUS	1979	3,575	8.71	1.10	½	410	820	25,896	4%	9%
YOLO	1977				1½	976	697	28,896	45%	20%
YUBA	1976	4,000	16.73	3.54	⅓	239	1,195	9,029	unk.	unk.
						<u>33,749</u>		<u>1,947,778</u>		

Source: California League of Alternative Service Programs

Figure 3-4— Total Costs Per Client for 31 Community Service Programs (1982)

<u>Cost Range*</u>	<u>Number of Programs</u>
\$ 0 – \$20	7
20 – 40	12
40 – 60	8
60 – 80	2
80 or more	2

* These cost estimates are approximate and may not reflect actual costs.

Source: California League of Alternative Service Programs, 1983

sources—hours of work performed, valued at the minimum wage (\$3.35), and savings from avoiding two days of jail costs valued at \$18.75 per day. When these values are assigned, the cost benefit of the litter detail is approximately 3 to 1.

The “community service” program involved working with local government and private organizations, usually in the specialty area of the offender. The labor hours were evaluated at the going rate for similar occupations in the community. The rates assigned varied from the minimum wage to \$25 per hour. Thus, the cost-benefit ratio of this program is better than 6 to 1.

ADVANTAGES AND DISADVANTAGES OF COMMUNITY SERVICE

Community service programs have a number of theoretically attractive benefits that have not been carefully evaluated to date. Among the potential advantages to a community considering alternatives for solving the overcrowding problem in local jails are the following:

1. On a cost-per-day basis, community service is less expensive than confinement in jail.
2. Community service offers alternatives for sentencing non-violent offenders, thereby reducing the burden on correctional facilities and providing the court with greater sentencing flexibility.
3. Community service benefits the community by providing services that would otherwise be charged to taxpayers or that, while not otherwise available, improve the quality of life within the community.

Figure 3-5— Estimated Annual Cost vs. Benefits for Baton Rouge, Louisiana, Community Service Program (January 1 - December 31, 1983)

<u>Program Area</u>	<u>No. of Successful Clients</u>	<u>No. of Hours Worked</u>	<u>Est. Value of Work Performed</u>	<u>Averted Jail ** Costs</u>	<u>Estimated Program Costs</u>
Litter Detail	521	16,672	\$55,851.20*	\$19,537.50	\$21,398.74
Community Service	1,253	41,383	221,966.19	46,987.50	26,388.18
Total	1,774	58,055	\$277,817.39	\$66,525.00	\$47,786.92

* Minimum wage = \$3.35

** Averted jail costs = \$18.75 × 2 days per client

Source: Baton Rouge City Court, 1984

4. Community service provides a constructive and more relevant penalty for non-violent offenders, by assisting in their reconciliation with the community and returning to normal life.

Limiting these advantages are the following disadvantages of community service programs:

1. While less expensive than jail on a day-to-day basis, the costs of administering a longer community service sentence may be approximately the same or more than the costs of a shorter jail sentence.
2. Most community service offenders are not covered by worker's compensation and must have

special insurance coverage. Program managers and correctional staff may also need liability coverage.

3. Because of the minimum skills of many offenders and possible resistance from unions, there is a danger that some community service programs will involve make-work efforts of little value to the public.
4. Because of the popularity of community service, judges may be tempted to sentence minor traffic offenders to these programs. As a result, these programs can become filled with offenders who do not reduce the jail population. In such cases,

community service will not be an alternative that will reduce jail crowding.

SUMMARY

Interest in community service, as both an adjunct and an alternative to confining non-violent offenders, is rapidly increasing. Community service appears to be one of the most significant non-residential alternatives to jailing drunk drivers. As these programs mature and their capability to classify offender job skills and place offenders effectively increases, the value of these programs will grow both as a cost saving and as a direct benefit to communities.

Section 4

Victim Restitution

"Victim Restitution: Any person convicted for driving under the influence who causes personal injury or property damage should pay restitution."

—*Presidential Commission on Drunk Driving*, 1983

Restitution normally occurs through two processes. Direct restitution by the individual offender to the victim, and public compensation through State victim compensation funds. The effectiveness of restitution, both in assisting victims and rehabilitating criminals, has had only limited evaluation (Hudson and Chesney, 1977), and results to date have been inconclusive. A comprehensive overview of victims services and victims restitution is provided by Young and Stein (1983). Victim restitution is an important and growing part of the criminal justice system.

DIRECT RESTITUTION

Direct restitution is normally based on a court order that is made a part of the sentence or one of the conditions of probation. Occasionally, this restitution may be made in in-kind services if the offender is not violent and has skills that can be useful to the victim. Most frequently, however, direct restitution is in the form of monetary payments by the offender.

Promoting direct restitution on a one-to-one basis is a theoretically attractive way of making the victim "whole" and reconciling the violator to the victim and to society. The Federal Government has sponsored a number of pilot restitution programs (DOJ, n.d.). One of the better known is conducted in Georgia where selected offenders are diverted to

a restitution program instead of being placed in prison. These offenders work in the community during the day and return to the restitution center at night. Their paychecks are forwarded to the restitution center, which manages the payments to victims. This type of personal restitution by offenders is a cross between community service and a fine. As a special type of community service, it has the same advantages and disadvantages as an alternative to jail.

For drivers arrested and convicted of drunk driving as a result of traffic crashes, a sentence providing for direct restitution may be appropriate. This would constitute a special case of community service in which the offender would provide useful services and work directly for the victim (where the offender is a painter, for example, and the victim's house needs painting).

This personal interaction with the victim could also have a therapeutic effect for the offender and the public as a whole. To the extent that drunk driving offenders see their drunk driving accidents as simply bad luck—as mishaps that could happen to anyone unlucky enough to be in the wrong place and the wrong time—it is unlikely that they will change their behavior. Direct interaction with the victim offers a clear opportunity for the offender, and ultimately the public, to understand the suffering produced by these offenses.

If direct services are impractical, monetary compensation may be appropriate. An alternative sentence similar to the Georgia program for traditional criminal offenders could be used: Offenders who hold jobs or have marketable skills could work at paying jobs in place of unpaid community service, with the proceeds of their work going to the victim after basic administrative costs were met.

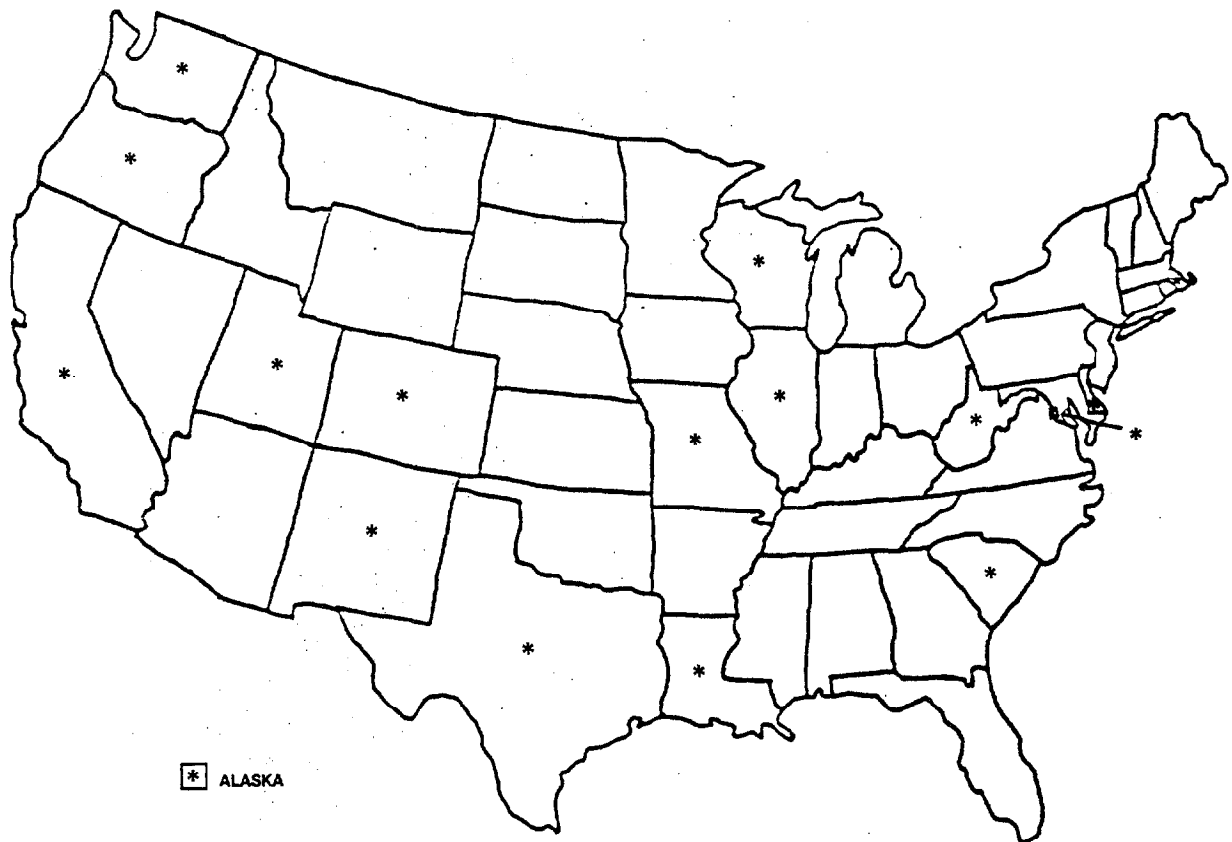
VICTIM COMPENSATION STATUTES

A second major type of restitution is provided by public compensation through victim compensation statutes. The first victim compensation law was passed in California in 1965, and more than 30 states currently have such laws. These laws generally preclude payment for property damage and compensate the victim only for personal injury. Many State laws also base compensation on need. No payments are made for pain or suffering, and payments are generally denied to victims who may have contributed to their own injury.

Until recently, State victim restitution programs excluded the traffic crash victim, apparently under the theory that such victims are adequately protected by insurance. But drunk driving victims may be a particular exception to this general rule. It has been demonstrated that many convicted drunk drivers whose licenses are suspended continue to drive. Many of these drive without insurance, since the insurance premiums for convicted DWIs are often more than double. A California study of suspended drunk drivers indicated that many did not reapply for their licenses once the period of suspension was over. One hypothesis for this is high insurance costs: they could not afford the insurance required to reinstate their licenses. If a considerable number of uninsured drunk drivers are on the roads, then victims of drunk drivers may have a greater-than-average need for access to sources of victim restitution.

Citizens action groups representing victims, such as Mothers Against Drunk Driving (MADD) and Remove Intoxicated Drivers (RID), are attempting to develop public support for obtaining legislative actions that include auto

Figure 4-1 States Whose Victim Compensation Laws Include Motor Vehicle Crime



Source: National Highway Traffic Safety Administration, 1983b

victims under public compensation programs. These groups appear to be having some impact in this area, as indicated by the number of States shown in Figure 4-1 that do not exclude traffic crash victims from their victim compensation programs.

ADVANTAGES AND DISADVANTAGES OF VICTIM RESTITUTION

Victim restitution programs for drunk drivers represent a special type of monetary community service. They may be particularly appropriate sanctions for

offenders who have marketable skills or are employed. Among the advantages of a DWI victim restitution program would be the following:

1. Victim restitution provides a tangible benefit to the victim and one that can be clearly understood not only by the victim but by the community at large.
2. Managing a victim restitution program, like managing a community service program, is generally less expensive than incarceration. The relative savings depend on the number of jail days saved in relation to the

length of the victim restitution service.

3. Victim restitution is potentially a more meaningful penalty for the offender. It may assist the offender in being reconciled with the community and avoiding repetition of the drunk driving offense.
4. Although the majority of DWI offenders have no victim because they are not arrested as a result of a traffic accident, these offenders could pay into a fund established by the State or locality to compensate the victims of alcohol-related crashes.

Against these advantages, there is a possible limitation in the use of victim restitution. Because some drunk drivers lack the income or job skills to provide funds or in-kind services to victims, these offenders would have to be handled in other types of programs.

SUMMARY

Victim restitution is a sanction rarely applied by the courts in drunk driving cases. Yet it offers significant potential for additional restitution by the convicted drunk driver. Drunk drivers in

general are relatively stable financially, and many are reasonably well educated and have marketable skills. As an alternative to traditional forms of community service, restitution by DWIs to their victims seems to be an important sanctioning option.

Section 5

Probation

In criminal sentencing the judge makes a determination at the time sentence is pronounced (on the basis of the information gathered in the presentence investigation) whether the offender can be appropriately punished by sentencing to probation in lieu of incarceration. This decision is normally based on a number of factors, including the severity of the crime committed. The judicial decision also takes into consideration the risk that the offender presents to the community. Non-violent property offenders frequently receive a sentence of probation rather than incarceration, and the pressure upon judges to avoid sentences involving incarceration increases as jail facilities become overcrowded.

One approach to assist sentencing decisions in the face of overcrowded prison and jail conditions is to make the prison or jail capacity a factor in the guidelines established for sentencing. This has been done, for example, in Minnesota, where the State legislature mandated that current prison capacity be a factor in developing sentencing guidelines. Moreover, it insisted that the guidelines limit prison populations to 95% of available capacity. A second method for adjusting sentences, which is independent of the courts, is the procedure adopted by Michigan, Connecticut, and Oklahoma, among others, that provides for reducing the terms of offenders serving sentences when prisons become overcrowded (DOJ, 1983a).

A third approach to controlling overcrowding has been suggested by John Manson, Commissioner of Corrections for Connecticut. Manson has proposed that a system be established to determine the resources of the prison system each fiscal year (Blumstein and Kadane, 1983). Each judge in the system would then be allotted a certain number of bed days for sentencing offenders that year.

INTENSIVE SUPERVISION PROBATION

Recently, several States have mounted "intensive supervision" programs for offenders who would otherwise be incarcerated (Gettinger, 1984). Most probation officers carry case loads of between 100 and 200 offenders. This means that their contact with an individual offender is often limited to a monthly telephone call or letter. Figure 5-1 summarizes the characteristics of the intensive supervision programs in six States. As noted, the case loads in these programs are generally limited to approximately 25 offenders.

The State of Georgia has a particularly intensive program in which two probation officers supervise a case load

of 25 offenders (Gettinger, 1984). One officer counsels the client and manages his or her probation while the second serves as an investigator, visiting places of employment and checking for curfew violations in the offender's home. Through this type of intensive probation contact, an attempt is made to enforce strict rules that limit the offender's freedom of movement. This supervision also assures that the offender continues to be employed and that fine and restitution payments are made.

Intensive probation programs are only beginning to be evaluated. Evaluation of traditional probation programs involving large case loads and infrequent contacts have generally suggested little relationship between the size of the case load and the success of the program. If

Figure 5-1— Characteristics of Intensive Supervision Programs (Six States)

	Case Load	Number of Officers	Approx. Cost/Day	Type of Program	Community Service Required	Fee Required
Georgia	25.2*	60	\$ 4.75	Probation	Yes	Yes
New York	25	99	3.80	Probation	Varies	No
New Jersey	20	20	6.80	Probation**	Yes	Yes
Texas	25-40	75	5.00	Probation	No	Yes
Washington	25	26	5.00	Parole/Probation	No	Yes
Wisconsin***	34	NA	3.40	Parole	No	No

*Uses team supervision: two officers supervise a caseload of 25.

**The New Jersey program is run by Probation, but all participants serve 30-60 days in a State facility.

***Wisconsin does not use specialized intensive supervision caseloads. A case load of 34, however, would constitute a full workload.

Source: Gettinger, 1984

anything, there appeared to be an inverse relationship: Smaller case loads resulted in more revocations, presumably because the more frequent contact uncovered more technical violations. A recent study of intensive probation supervision in New York State, however, indicated that while intensive supervision did result in more failures among low-risk probationers, it increased the proportion of successes among high-risk probationers.

PROBATION FOR DWIs

Evaluations of the use of probation with drunk drivers have generally been negative. Two such projects have been supported by the National Highway Traffic Safety Administration, one in Tennessee (Holden and Stewart, 1981) and the second in Mississippi (Landrum et al., 1982). The Tennessee supervised probation project consisted of 12 monthly meetings with a probation officer plus a treatment and rehabilitation component. Evaluation of the project yielded no differences in drunk driving recidivism or accident rates during the two year following conviction. In the Mississippi project, DWIs were randomly assigned to four treatments: probation only, rehabilitation only, a combination of probation and rehabilitation, and a control group that received neither. Evaluation of this project also revealed no differences in recidivism that could be related to the treatment or probation during the two years following conviction.

A third evaluation project conducted in Sacramento, California (Reis 1983) found that multiple-offender problem drinkers who were required to attend biweekly (15-minute) interviews with a case worker maintained better driving records during the year when they were

under this supervision. However, the improvement disappeared at the end of the year.

Thus, there is little evidence for the effectiveness of probation in dealing with drunk drivers. However, intensive probation of the type being applied to criminal offenders who would otherwise be incarcerated has not been evaluated with DWIs. Such intensive probation could assure that the offender was participating in treatment and abiding by license suspensions and other probation requirements. In addition, extended probation supervision might offer better protection to the public than short-term jail sentences.

One example of an intensive probation program specifically applicable to problem drinkers who are convicted of drunk driving offenses is the program established by Judge William H. Miller (1983) of Vanderburgh County, Indiana. This program combines 30 days of work-release in the local jail with 90 days of "house arrest" during which time the individual is on a supervised Antabuse® program (i.e., treatment staff monitor the offender's taking of this drug, which prevents drinking). Following this 120-day period, the individual is placed on intensive probation and is required to continue to take Antabuse® for the remainder of his or her sentence. The multiple offenders placed in this program are subject to four-year sentences and therefore generally are required to stay on the Antabuse® program for that period of time.

This type of supervision can provide for protection of the public by assuring that the offender is not drinking and therefore not drinking and driving. The program can be applied only after a medical examination to ensure that Antabuse® is not contraindicated. Most of the problem drinkers placed on such

a program will require treatment in order to remain abstinent once they are placed on the unsupervised Antabuse® program. No comprehensive evaluation has yet been made of the Vanderburgh County program. If the program succeeds in keeping multiple-offense drunk drivers (most of whom are problem drinkers) abstinent for four years, it should produce a significant reduction in their involvement in accidents.

Effective monitoring and prevention of drinking is similar in concept to license revocation. In one case, offenders are prohibited from driving; in the other, they are prohibited from drinking. If either of these prohibitions can be effectively enforced, the public is protected from drunk driving accidents caused by the offender.

RELATIVE COSTS

Probation that is sufficiently intense to ensure that the DWI is working, taking treatment, and not drinking and driving may be a useful and cost-effective alternative to incarceration. The cost figures shown in Figure 5-1 indicate that the cost per day (about \$5) for intensive supervision is approximately one-seventh the amount (\$35) it costs to house a Federal inmate (DOJ, 1983a) and one-fifth the expense (\$26) of housing an inmate in a county jail (DOJ, 1984). This produces a significant net cost-benefit for each day of probation that can be substituted for a day in jail.

For first-time offenders sentenced to 2 or 3 days in jail, intensive probation is probably not an appropriate option. For multiple offenders sentenced to longer periods of incarceration, considerable savings could be realized if intensive probation were substituted for at least a portion of the jail sentence. The relative cost savings would decline, however, if

the courts are tempted to sentence offenders to longer periods of probation than would have been imposed had the sentence involved incarceration. If 120 days of probation is substituted for 30 days of incarceration, the relative cost will be approximately the same. It is possible, of course, that 120 days of intensive probation might be more effective in preventing recidivism than 30 days in jail.

As with other non-residential programs such as community service, there may also be a temptation for the courts to use these programs for offenders who would not have been jailed in the first place. If intensive probation programs are seen to be effective and appropriate for multiple DWI offenders, it may well be that they will be applied to first offenders. Since first offenders are rarely jailed or, if given jail sentences, normally jailed for two or three days at most, this use of an intensive probation program would increase correctional costs.

It is possible that the cost-effectiveness of intensive probation monitoring can be increased in the future by technological means. The use of "house arrest" has been a means of confining certain types of offenders for many years. Some jurisdictions are pilot-testing electronic monitors that are worn on the body and that emit radio signals if offenders attempt to violate the terms of their probation (e.g., leaving their homes after curfew). Whether electronic systems will facilitate adequate supervision of non-violent offenders remains to be seen. Technological approaches to protecting the public from drunk drivers by monitoring their driving are also being studied. The National Highway

Traffic Safety Administration (1984) is supporting research on a "Drunk Driver Warning System" that would be attached to the car of a convicted DWI and would issue a warning (lights flashing, horn blowing) if the offender attempted to drive while impaired.

ADVANTAGES AND DISADVANTAGES OF PROBATION SUPERVISION

Use of probation for convicted drunk drivers, providing it is reasonably intense, offers a practical method of reducing jail overcrowding and corrections costs. Among the potential benefits are the following:

1. Probation can be a highly cost-efficient method of restricting the offender's freedom of movement.
2. Probation permits the convicted drunk driver to continue working and thereby allows the offender to pay fines, make restitution, and pay supervision fees.
3. Probation can assist the treatment of problem drinkers by ensuring their attendance at treatment sessions and monitoring their driving.
4. Probation can assist the courts in collecting time payments from offenders.

These benefits are limited by the extent of the supervision permitted, given current probation case loads and the willingness of judges and the public to support probation departments. Specific problems that may arise in the use of probation as a sanction for DWIs are the following:

1. There is possibly a greater risk

to the public from the offender released into the community as compared to the jailed DWI even though periods of incarceration for drunk driving are relatively brief.

2. Probation for the DWI may be seen by the public and local officials as a weak and insignificant punishment for a serious offense.
3. Increasing the number of offenders on probation and the intensity of their contacts with probation officers will increase the number of officers needed to handle the work load. This could prove a major problem to most communities, especially those that have "frozen" government hiring.

Although intensive probation costs considerably less than jail on a day-for-day basis, its use may not produce significant cost savings. The choice will normally be between a *short* jail sentence (a few days) and a *longer* probation period (six months, for example), or a combination of both.

SUMMARY

Neither jail nor intensive probation has been sufficiently evaluated with DWIs to permit a determination of their relative effectiveness in preventing re-offense. Communities need to consider both alternatives in developing a comprehensive program for drunk drivers. Whatever the choice, an evaluation program should be established to validate the program selected.

Section 6

License Suspension

"States should enact legislation to require prompt suspension of the license of drivers charged with driving under the influence upon a finding that the driver had a BAC of 0.10% in a legally requested and properly administered test. The prompt suspension should also extend to those who refuse the test as well as those who are driving in violation of a restricted license. Such suspension may be carried out by the arresting law enforcement agency, the court upon arraignment, or the administrative agency charged with license administration. There should be reciprocity among States to assure a driver's license suspension by the home State if the driver meets these conditions in another State."

*—Presidential Commission on
Drunk Driving, 1983*

A standard penalty for driving while intoxicated has always been the loss of the driver's license. Historically, this penalty has been imposed by the court either directly or through an order to the State director of motor vehicles. Recently, there has been a legislative trend for States to adopt administrative-per-se revocation laws. These laws give the motor vehicle director the power to revoke or suspend a person's driver's license if the individual refused to take a breath alcohol test or if the result of that test was a BAC above the State limit (generally .10%).

The National Highway Traffic Safety Administration (1984a) has issued a model Revocation On Administrative Determination (ROAD) law. This model law is being used by States to design their legislation. As more and more States adopt these statutes, license re-

vocations are occurring closer to the time of arrest and are generally occurring with greater certainty than when they were dependent on conviction and court action.

A number of evaluations have been made of the effectiveness of license revocation for DWIs (see Volume I). Studies in the States of Washington, North Carolina, and California (NHTSA, 1984; Sadler and Perrine, 1984) indicate that license suspension reduces the probability of rearrest for DWI and the frequency of accident involvement in comparison to DWIs who receive other types of penalties. Even though some suspended offenders continue to drive, experience with this penalty indicates that the total driving by suspended offenders is reduced. Moreover, what driving does occur may be more cautious and take place during lower-risk hours: While suspended drivers continue to have some accidents, the total number of accidents is reduced by as much as 50% during the period of suspension (NHTSA, 1984, p. 64).

This safety benefit may extend beyond the initial period of revocation. Reduction in accident rates beyond the period of suspension has been demonstrated in California studies reviewed by Sadler and Perrine (1984). It is unclear whether this is a carryover effect or whether it is because some suspended drivers fail to reapply for their licenses when they become eligible. There is some evidence that suspended drivers do not reapply for licenses, possibly because they must demonstrate that they have insurance to gain reinstatement and insurance costs for convicted drunk drivers are substantially higher than the charges to the normal driver.

Suspending an offender's license, assuming the offender adheres to this limitation, has two effects. First, it

protects the public against drunk driving accidents and all other traffic accidents for which the offender might be responsible. As a result, it is an effective highway safety measure (Sadler and Perrine, 1984). Second, because it produces significant inconvenience for the offender, it is also a significant punishment.

While short-term jail sentences may have considerable psychological impact upon the DWI offender, they provide little protection to the public against repetition of the offense. The period of incarceration is usually short, and the offender is soon free to drive again. Driving suspensions generally last longer and are less expensive to impose. Therefore, use of license suspensions in lieu of residential programs will result in savings.

Limitation of the driving privilege can also be used as an important adjunct to jail. DWIs sentenced to work release programs, for example, can be prohibited from driving to and from their place of work even though they hold a valid license. Some convicted drunk drivers who are placed in work release centers or on probation will not be driving because their licenses have been suspended. Many times, however, the suspension will already have been served. On the other hand, it is possible, because of hearings and appeals, that the sanction will have not yet been imposed by the time the offender begins a work release or community service sentence.

Managers of work release, community service, and intensive probation programs should consider limiting the driving of any DWI whose license is still valid. Convicted offenders who become involved in a drunk driving accident while under the supervision of a correctional official might expose the

supervising officials to third-party liability.

ADVANTAGES AND DISADVANTAGES OF LICENSE SUSPENSION

License suspension is an effective punitive measure and an effective safety measure for protecting the public. It can be used in conjunction with jail or with other penalties as an alternative to incarceration to help reduce overcrowding. As a sanction, license suspension offers the following advantages:

1. It protects the public by reducing drunk driving accidents.
2. It is a relatively inexpensive countermeasure in comparison to most other penalties.
3. It is a significant inconvenience for the offender and therefore is a feared sanction.
4. It can be used effectively with other supervision measures to minimize mobility and help en-

sure that the offender is not engaging in activities prohibited by the conditions of probation.

Limiting the impact of these advantages are several disadvantages of the license sanction:

1. Loss of license is very difficult to enforce in urban areas. Most individuals who drive without licenses are apprehended only when they commit a traffic offense. Without special enforcement effort, the probability of being apprehended without a license is sufficiently low that most individuals who are suspended or revoked continue to drive to some extent. However, the amount of driving is significantly reduced and the number of accidents decreased.
2. As penalties for drunk driving become tougher, the periods of time for which driver's licenses are suspended are increasing.

Additional limits on driving as an alternative to incarceration or other more expensive correctional programs may be impractical if the individual is already serving a lengthy revocation.

SUMMARY

Suspension of the driver's license is a penalty that may be applied to all DWIs to protect the public as well as punish. Suspensions should not be reduced, nor should they be traded off against a jail sentence, particularly a short-term jail sentence, because suspension is the one sanction that has been shown to reduce future accident involvement. In some cases, extension of suspensions may be a useful alternative to more costly sanctions. For example, restoration of driving privileges could be conditioned upon satisfactory completion of treatment for alcohol abuse.

Section 7

Treatment and Education Programs

"Rehabilitation and education programs for individuals convicted of driving under the influence should be provided as a supplement to other sanctions, and not as a replacement for those sanctions."

—*Presidential Commission on Drunk Driving*, 1983

BACKGROUND

Up to two-thirds of first-offense DWIs and 9 out of 10 multiple-offense DWIs have a serious drinking problem. As described in Volume I of this series, treatment for problem drinking has been shown to help reduce recidivism among DWIs. Drinker-type screening and the opportunity to participate in alcohol treatment programs should therefore be an important consideration in sentencing drunk drivers.

While treatment can be effective, a significant image barrier exists to using treatment as an alternative rather than as an addition to other punishments. On the one hand, for victims organizations, the public, and particularly law enforcement officials, treatment may give the appearance of coddling the criminal, of suggesting that society excuses the drunk driving act because it is a product of a "sick" person. On the other hand, some treatment specialists are uncomfortable with coercive rehabilitation programs established as a part of the criminal justice system. Their view is that seeking medical help should be a voluntary act. Because alcoholics generally deny they have a drinking problem, however, most alcoholism specialists agree that many who enter treatment have been "forced" to seek help, whether by wives or employers or the courts.

The courts are likely to see treatment as a more constructive and useful penalty than traditional sanctions such as incarceration. While few adequate studies have been done on the effect of incarceration on drunk driving, what evidence is available suggests that incarceration does not reduce either drinking or drunk driving accidents. While most therapists agree that the problem drinker should suffer the consequences of his or her antisocial acts, they generally take the position that treatment is necessary to cure a drinking problem.

Although no studies have been done on the "punishing effect" of forced treatment, it is clear from their attitudes that problem drinkers and alcoholics have little desire to change their drinking habits. Being forced to become abstinent through coerced treatment can be both psychologically and physically painful. Thus, it is probable that, for the problem drinker, enforced treatment is a severe punishment. If given the opportunity, these drinkers might choose sanctions, such as short jail terms, that the public believes to be more severe penalties in preference to forced enrollment in a program designed to make them give up drinking.

The alternatives offered in existing programs give some indication of what it takes to motivate convicted drivers to accept treatment. In California, for example, multiple DWI offenders were given the alternative of a year's license suspension or participation in a treatment program involving group therapy once a week and an individual 15-minute interview every two weeks. Under these conditions, the large majority of offenders elected to participate in the treatment program rather than lose their driver's licenses. However, a study by Reis (1983) in Sacramento indicated that approximately 25% of those who

initially elected treatment dropped out and, as a result, had their licenses suspended. For this portion of the group, even the threat of losing their driver's licenses for a year was not sufficient to keep them in the relatively intensive and long-term treatment program.

In most communities, treatment and/or education is used in addition to other sanctions. The cost of these programs is generally borne by the offender and/or the offender's health insurance company. In some cases involving longer term treatment of low income or indigent offenders, public health facilities may be required to meet the costs of treatment. In most localities, neither the county nor the corrections department is required to fund the treatment costs for DWIs.

TYPES OF TREATMENT PROGRAMS

A major factor in the cost of treatment programs for problem drinkers and alcoholics is whether the program is residential or outpatient. Health insurance programs will frequently cover at least a portion of these costs, especially for residential treatment.

Residential programs are particularly appropriate for acute detoxification and for initiating a program of therapy. Most residential programs for alcoholics are followed by an extended period of outpatient treatment. Although most programs for drunk drivers involve outpatient treatment only, short-term (two- or three-day) residential programs, as described in Volume I, have recently been established to provide an alternative to the short-term jail sentences applied to first DWI offenders (Siegal, 1983).

Residential treatment programs will generally be expensive in relation to jail sentences when compared on a cost-per-day basis. Such programs involve not only room and board expenses for the

offender but also the cost of medical and counseling services. The Seattle King County program managed by the Pioneer Cooperative (1980), for example, involved a total cost of \$43 per day. This expense was divided into \$19 for room and board ("incarceration costs") and \$24 for treatment. The weekend intervention program in Dayton, Ohio, charged \$175 for a two-day program, which is three to four times the average cost of a day in jail.

Longer-term residential treatment programs should be considered for multiple offenders who might normally be sentenced to 30 to 90 days in jail for drunk driving. These offenders are, in all probability, problem drinkers. While sentencing them to a work release facility would be appropriate punishment, the public may be best protected in the long run if this time were spent in residential treatment or a program of therapy that could overcome the basic drinking problem.

One example of a residential treatment program for offenders is the Vendanta Program run by Talbott House, Incorporated, under contract to the city of Cincinnati (Carter et al., 1980). Vendanta is an adult therapeutic residential facility for drug abusers. The average stay in the facility is eight months. The facility can accommodate 28 offenders and accepts both males and females. In 1977, the annual budget for the Vendanta Program was \$206,746. The average daily population during that year was 17. On this basis, the average daily cost was \$33.32.

Alcohol education programs are primarily applicable to first-offender social drinkers. These programs typically involve 10 to 20 hours of classroom lectures and generally charge between \$50 and \$150 in client fees. Almost all of these programs are funded entirely by

client fees and therefore involve no cost to the community.

Outpatient programs for problem drinkers are, or should be, significantly more expensive than education programs but less expensive than residential treatment. As described in Volume I, to be effective in reducing the recidivism of problem drinkers, these programs must involve at least a year-long supervised therapy period (Reis, 1983). California law (Senate Bill 38), for example, requires a year-long treatment program for multiple DWI offenders in return for allowing them to have a limited driver's license rather than a full suspension. Licensed treatment agencies charge approximately \$700 for this year-long program, which works out to approximately \$2 a day. Services are actually provided weekly, with some monitoring activities in addition to group therapy.

Extended treatment programs of this type can provide monitoring services directed at ensuring that the offender is not drinking and driving. In the Sacramento program studied by Reis (1983), Antabuse® administration was a part of the therapy program for some offenders. Other programs require regular attendance at meetings of Alcoholics Anonymous (AA).

Most long-term therapy programs require abstinence as a feature of the rehabilitation program. Abstinence is, of course, difficult to ensure unless the individual is closely supervised and regularly monitored. Where the program does provide for regular attendance at AA and other supervision, the extent of drinking should be greatly reduced.

TREATMENT RECOMMENDATIONS

The Presidential Commission on Drunk Driving (1983) offered the fol-

lowing specific recommendations regarding treatment programs:

1. "Pre-sentence investigations, including alcohol assessments conducted by qualified personnel, should be available to all courts in order to appropriately classify the defendant's problem with alcohol. Repeat offenders should be required to undergo medical screening for alcoholism by a physician trained in alcoholism, an alcoholism counselor, or by an approved treatment facility."
2. "Alcohol education programs should be used only for those first offenders who are classified as social drinkers and for those who have had no previous exposure to alcohol education programs. Problem drinkers and repeat offenders should be referred to more intensive rehabilitation programs."
3. "Alcohol treatment and rehabilitation programs should be available for individuals judged to need such services. The programs should be tailored to the individual's needs, and the individual should be assigned to such programs for a length of time determined by treatment personnel and enforced by court probation."
4. "State insurance commissioners should require and/or State legislators should enact legislation requiring health insurance providers to include coverage for the treatment and rehabilitation of alcohol and other drug dependent persons in all health insurance policies."

ADVANTAGES AND DISADVANTAGES OF TREATMENT PROGRAMS

Because the majority of convicted drunk drivers are problem drinkers, alcohol treatment is a sanction that should be an adjunct to other penalties for the following reasons:

1. Long-term treatment for problem drinkers is one of the few sanctions demonstrated to reduce DWI recidivism.
2. Long-term treatment programs, augmented by significant monitoring of the offender's behavior, can protect the public against drinking driving accidents.
3. Payment for treatment services through offender fees is a well-established principle. Most short-term programs can be implemented without cost to the community. A longer-term program may require additional funding from Federal, State, or

local mental health sources, but can be substantially supported from offender fees.

Limiting the use of treatment programs are the following factors:

1. Residential treatment is generally more expensive than incarceration in a jail or work release center.
2. While offender payments can support shorter-term programs, long-term treatment may place a burden on the community's health resources.

SUMMARY

Short-term alcohol education programs can be of value to first offenders who are social drinkers. Problem drinkers, whether first or multiple offenders, require a minimum of one year of supervised therapy. Nearly all treatment programs for DWIs are supported by offender fees. Some problems exist with respect to the treatment for problem drinkers because the courts frequently

do not require a minimum of one year's treatment.

While the relative effectiveness of jail sentences, community service, fines, and treatment in reducing DWI recidivism is not yet known, it has been established that license suspension is more effective than treatment in reducing accidents. Therefore, license sanctions should not be reduced to motivate attendance at treatment programs.

Nor should the license be automatically returned to a problem drinker once the initial suspension has been served. The State motor vehicle department should determine that the individual has overcome his or her drinking problem prior to restoring the license. If the offender cannot provide adequate evidence of recovery, then the driver license agency should refuse to renew or issue the individual only a limited permit until he or she is able to provide evidence of recovery. In this way, the driving privilege can be used to help motivate attendance at treatment programs.

Section 8

Cost Comparisons

Figure 8-1 shows the estimated operating costs for the types of facilities and programs available for handling DWI offenders. Once again, while the costs of Federal or State prisons are not directly applicable to drunk drivers, they are significant to communities in their planning. The State's cost for housing offenders provides one basis for determining the transfer payments that may be made by a State to a locality that assumes responsibility for offenders who would otherwise be housed in a State prison.

The cost per day is a less meaningful measure for programs that involve community service, probation, and treatment. Therefore, estimates of the cost per offender have also been provided. Three different estimates are provided for the residential programs—the cost for 2 days (generally the maximum sentence for a first-offense drunk driver) and the cost for a 30-day sentence (the sentence frequently applied to multiple offenders). All of these estimates are based on data reviewed in earlier sections of this volume.

Because of variations in living costs, buildings, the extent of security, and the amount of service provided, these estimates can vary significantly. They are presented to permit some comparison between the various options that are available for handling convicted drunk drivers. On a per-day basis, housing DWI offenders in the local jail may be less expensive than placing them in a well-staffed work release center. On the other hand, costs can be reduced by using a residential facility such as the annex jail established in Mecklenburg County, North Carolina.

On a day-for-day basis, community service involves less expense to the locality. However, most community service sentences are longer than two to

three days. If 10 days of community service are to be substituted for 2 days of jail, then the cost to the community may be approximately the same. Offsetting this cost is the value of the service performed during the community service period. If valuable service can be performed by offenders, then the monetary equivalent of those services should be considered in planning correctional programs.

When offenders are employed, they can better afford to make maintenance payments. The payments that can be collected from multiple offenders assigned to a work release center may overcome the cost differential between a minimal jail and a well-staffed work release center. As for those incarcerated

for longer periods (30 to 90 days), the fees that can be collected through a work release program will probably more than offset the increased expense of staffing a work release center as compared to a minimum jail.

SUMMARY

Offender fees are a major consideration in choosing among the various alternatives in Figure 8-1. When offenders are allowed to have jobs, they are able to make fee payments that may return to the community part or all of the costs of the sanction (or sanctions) applied.

Georgia, for example, meets the costs of its intensive probation program through offender fees. Fees are regularly col-

Figure 8-1— Operating Costs of Correctional Programs for Drunk Drivers

Residential Programs	Cost Per Day	Cost Per Offender	
		2 days	30 days
Prison	\$ 35.61*	—	\$ 1,068
Jail	25.64**	\$ 52	769
Non-secure work release	32.87*	66	986
Contact facilities	29.00*	58	870
Non-residential Programs	Cost Per Day	Cost Per Offender	
Community service	\$2.00 – 10.00***	\$20	– 100
Probation			
• Normal	0.60 – 4.60*		1,000
• Intensive	3.00 – 10.00		1,825
License restriction			10
Treatment			
• Social drinker			50–125
• Problem drinker			650–750

* DOJ, Bureau of Justice Statistics, 1982

** DOJ (1984) National Average Operating Expenditures, 1983

*** CLASP, 1982.

Source: Baird, 1983.

lected at community facilities such as Hope Village, which collects approximately 16% of what it would cost the Federal Government to maintain a pris-

oner. The Montgomery County Work Release Center collects 20% of its costs from fees. Because the drunk driver is more likely than other offenders to be

employed and earning an income, communities could collect an even higher proportion of the costs of their drunk driving programs and services.

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